

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

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ERIC W. PAYNE,

Plaintiff,

v.

Case No.: 10-cv-00679

DISTRICT OF COLUMBIA, et al., (RWR)

Defendants.

- - - - - x

Wednesday, November 30, 2011

Washington, D.C.

Videotaped deposition of

DR. NATWAR M. GANDHI,

the witness, called for examination by counsel for  
the plaintiff, pursuant to notice, held in the  
Temple Law Offices, 1229 15th Street, N.W.,  
Washington, D.C., beginning at 9:07 a.m.,  
before Kelly Susnowitz, a Notary Public in and for  
the District of Columbia, when were present on  
behalf of the respective parties:

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A P P E A R A N C E S

For the Plaintiff:

DONALD M. TEMPLE, ESQUIRE

Temple Law Offices

1229 15th Street, N.W.

Washington, D.C. 20005

202-628-1101

A. MENDIE ARCHIBONG, ESQUIRE

Archibong Law Firm, LLC

914 Silver Spring Avenue

Suite 116

Silver Spring, Maryland 20910

240-472-8959

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A P P E A R A N C E S

(Continued.)

For the Defendants:

ELLEN A. EFROS, ESQUIRE

SARAH L. KNAPP, ESQUIRE

TREVA SAUNDERS, ESQUIRE

Office of the Attorney General

441 Fourth Street, N.W.

Sixth Floor

Washington, D.C. 20001

202-442-7127

ALSO PRESENT:

Eric W. Payne, Plaintiff

Krishna Sharma, Videographer

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C O N T E N T S

Examination by Counsel

Witness	Page
DR. NATWAR M. GANDHI	
By:	
Mr. Temple	6

E X H I B I T S

(Attached.)

Exhibit No.	Marked
1 Affidavit of Mr. Payne	6
2 (Withdrawn)	17
3 E-mail Dated 4/18/08	62
4 E-mail Dated 5/15/08	71
5 E-mail Dated 1/13/08	99
6 E-mail Dated 6/15/06	101
7 E-mail Dated 1/16/09	104

1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Good morning. Here begins  
3 tape one in the videotape deposition of Dr. Natwar  
4 Gandhi, taken in the matter of Eric W. Payne v.  
5 District of Columbia, in the United States District  
6 Court for the District of Columbia. Case Number  
7 10-CV-00679, parenthesis, RWR, parenthesis close.  
8 Today's date is November 30, 2011 and the time on  
9 the video monitor is 9:07. This deposition is being  
10 held at the law offices of Donald Temple, 1229 15th  
11 Street, Washington, D.C. 20005. The court reporter  
12 today is Kelly Susnowitz and the video camera  
13 operator is Krishna Sharma, both on the behalf of  
14 Precise Reporting Services. Would counsel and  
15 others please introduce themselves and state whom  
16 they represent.

17 MR. TEMPLE: Good morning. Donald Temple for  
18 Mr. Payne, plaintiff.

19 MR. ARCHIBONG: Good morning. Mendie  
20 Archibong, for Mr. Payne, plaintiff.

21 MS. EFROS: Good morning. Ellen Efros for the

1 defendant, District of Columbia and, with me is  
2 Sarah Knapp, also counsel for the District of  
3 Columbia.

4 THE VIDEOGRAPHER: Would the court reporter  
5 please swear in the witness.

6 S T I P U L A T I O N S

7 It is hereby stipulated and agreed by and  
8 between counsel present at this videotaped  
9 deposition and by the deponent that the reading and  
10 signing of this deposition is not waived.

11 Thereupon

12 DR. NATWAR M. GANDHI,  
13 the witness, called for examination by counsel for  
14 the plaintiff, and after having been first duly  
15 sworn by the Notary Public, was examined and  
16 testified as follows: I do.

17 THE VIDEOGRAPHER: You may proceed.

18 (Deposition Exhibit No. 1 was marked for  
19 identification.)

20 EXAMINATION BY COUNSEL FOR THE PLAINTIFF

21 BY MR. TEMPLE:

1 Q. Good morning. Would you kindly state your  
2 full name for the record, please?

3 A. Yes. Natwar M. Gandhi.

4 Q. Mr. Gandhi, have you ever been deposed  
5 before?

6 A. Yes.

7 Q. On how many occasions?

8 A. Several.

9 Q. You know the rules, but I'll repeat them.

10 A. Yes.

11 Q. Okay. I'm going to ask you some  
12 questions, if you don't understand a question,  
13 please just simply say, I don't understand your  
14 question. I'll also ask that you and I respect  
15 each other's questions and answers. I won't step  
16 on your answers if you don't step on my questions.  
17 Let me finish my question and I'll let you finish  
18 your answer. Do you understand?

19 A. Yes.

20 Q. If you need to take a break, let me know,  
21 not a problem. What have you done to prepare for

1 the deposition today?

2 A. I've talked with my lawyers.

3 Q. Have you spoken to Angell Jacobs about her  
4 deposition?

5 A. No.

6 Q. Have you spoken to Paul Lundquist about  
7 his deposition?

8 A. No.

9 Q. Have you read the complaint in this case?

10 A. Generally, yes.

11 Q. Do you understand what Mr. Payne -- why he  
12 is bringing this lawsuit?

13 A. Yes, generally.

14 Q. And have you read any deposition  
15 transcripts?

16 A. No.

17 Q. Have you read the interrogatories in this  
18 case?

19 A. What do you mean by interrogatories.

20 Q. The questions that the plaintiff has sent  
21 to you to answer.



1           A.   Is that the document that I signed?  Yes,  
2   I have.

3           Q.   Have you read the request for production  
4   for documents in this case?

5           A.   No, I have not.

6           Q.   Have you read the request for admissions  
7   in this case?

8           A.   No, I have not.

9           Q.   Have you read Mr. Payne's affidavit?

10          A.   No, I have not.

11          Q.   Have you read the mayor's declaration or  
12   affidavit in this case?

13          A.   No, I have not.

14          Q.   Have you read any of the motions that have  
15   been filed in this case?

16          A.   No, I have not.

17          Q.   Have you listened to any of the tapes that  
18   have been provided to the defendant in this case?

19          A.   No.

20          Q.   Have you discussed any of the tapes that  
21   have been provided to the defendant?

1 A. No.

2 Q. Have you had any discussions with the  
3 mayor about this case?

4 A. No.

5 Q. Other than counsel, with whom have you  
6 discussed the case?

7 A. With no one.

8 Q. Do you maintain a file on Mr. Payne?

9 A. No, I do not.

10 Q. Does your secretary maintain a file on  
11 Mr. Payne?

12 A. Not that I know of.

13 Q. You have a calendar. Do you keep your  
14 schedule by way of an electronic calendar?

15 A. What appears on my Blackberry, yes.

16 Q. And does your secretary maintain your  
17 calendar?

18 A. She does.

19 Q. And what is your secretary's name?

20 A. Lynnette Jones.

21 Q. How long has she been your secretary?

1 A. Five years, roughly.

2 Q. You have e-mails?

3 A. Yes, I do.

4 Q. And how many e-mail addresses do you have?

5 A. I have the District address and I have a  
6 personal Yahoo address.

7 Q. Does your secretary have your Yahoo  
8 password?

9 A. No, she does not.

10 Q. Has she managed your e-mails, at all?

11 A. In the office, yes.

12 Q. Who manages your e-mails on the office  
13 side?

14 A. Lynnette Jones.

15 Q. When you say manage, what do you mean,  
16 please?

17 A. She's allowed to -- she has access to all  
18 my e-mails. She reads them, as well.

19 Q. Does she -- I'm sorry.

20 A. And whatever needs to be referred to  
21 staff, she would just refer that e-mail to a

1 particular staff person.

2 Q. And does she actually correspond, on your  
3 behalf, by directive? In other words, do you  
4 direct her to send -- to schedule meetings with  
5 persons --

6 A. Yes.

7 Q. -- and the like?

8 A. Yes.

9 Q. And have you directed her to send  
10 correspondence on your behalf?

11 A. Yes.

12 Q. Electronically?

13 A. Yes.

14 Q. On your personal e-mail, for what purpose  
15 do you use your personal e-mail account?

16 A. For purpose that are personal and,  
17 occasionally, for the office purposes, as well.

18 Q. And why would you use your personal  
19 account for office purposes?

20 A. Because I start my workday very early in  
21 the morning, around 4:30, five o'clock, and I have

1 difficulty accessing the District e-mail facility,  
2 that's why I use the Yahoo account to instruct the  
3 staff for work to be done.

4 Q. Are you aware that we have requested  
5 documents from you related to this case including  
6 e-mails?

7 A. Yes.

8 Q. Have you looked at your personal  
9 e-mails --

10 A. No.

11 Q. Let me finish the question. To ascertain  
12 the extent to which your personal e-mails may  
13 respond to the plaintiff's document request?

14 A. No.

15 Q. Have you communicated with elected  
16 officials on your personal e-mail?

17 A. Occasionally, yes.

18 Q. What does the word occasionally mean in  
19 this instance?

20 A. Not a regular basis, but if I -- 4:30 in  
21 the morning, if I need to send a message to an

1       elected person, I would do that.

2           Q.   So do I take from your answer that you  
3       don't communicate with them on your personal  
4       e-mail during the business day?

5           A.   Right.

6           Q.   Are there any other reasons you would  
7       communicate on your personal e-mail?

8           A.   No.

9           Q.   Now, do I understand, as well, that you  
10       communicated on personal e-mail with your chief of  
11       staff?

12          A.   Yes.

13          Q.   Okay.   And why would you communicate on  
14       your personal e-mail with your chief of staff?

15          A.   As I indicated earlier, when I want to  
16       tell her something in the morning, early morning  
17       when I'm working, that is the best way to do it.

18          Q.   So I take from your answer that you would  
19       not communicate with your chief of staff during  
20       the business day on your personal e-mail?

21          A.   Right.

1 Q. Is that the same with regard to  
2 Mr. Lundquist?

3 A. Yes.

4 Q. Would that be the same with regard to any  
5 of the people who are under you in your chain of  
6 command, going down?

7 A. Right.

8 Q. Just rewind for a minute. Would you  
9 please tell me, are you presently employed, sir?

10 A. Yes.

11 Q. And with whom?

12 A. District of Columbia Government.

13 Q. And your title, please?

14 A. Chief financial officer.

15 Q. And your start date in that position,  
16 please?

17 A. June of 2000.

18 Q. And what did you do before then?

19 A. I was the deputy chief financial officer  
20 in charge of the Office of Tax and Revenue.

21 Q. And for how long?

1 A. Roughly, three years.

2 Q. And before that -- and that's in the  
3 District of Columbia, as well?

4 A. That was in the District of Columbia. And  
5 before that, I was with the General Accounting  
6 Office or Government Accountability Office now.

7 Q. In the United States Government?

8 A. Right.

9 Q. And how long were you there?

10 A. Twenty years.

11 Q. I presume you retired from that position?

12 A. I retired from that position.

13 Q. And what is TIDC?

14 A. TIDC is an organization of Indian  
15 entrepreneur, who do a lot of technologic work.

16 Q. Are you associated with that particular  
17 association?

18 A. I am scheduled as a chartered member of  
19 that organization.

20 Q. What does that mean, please?

21 A. It was a honorific title, nothing more



1       than that.

2           Q.   Are there members of that organization who  
3       actually have contracts with the Office of the  
4       Chief Financial Officer?

5           A.   I do not know that.

6           Q.   Now, have you deleted any e-mails related  
7       to this case, sir?

8           A.   No.

9           Q.   Do you have any knowledge -- personal  
10       knowledge of the deletion by anyone of e-mails  
11       related to this case?

12          A.   No.

13               MR. TEMPLE:   Can I have this marked,  
14       please?   Counsel, I have -- this is Exhibit 2.  
15       I'm going to withdraw this from the proceedings.

16               (Exhibit No. 2 was withdrawn from the  
17       proceedings.)

18   BY MR. TEMPLE:

19           Q.   Back to your e-mails, your personal  
20       e-mails, have you sent any e-mails on your  
21       personal account to any member of the City

1 Council, sent?

2 A. Yes.

3 Q. To whom?

4 A. I don't remember exactly to whom.

5 Q. Have you sent any e-mails to Mayor Vincent  
6 Gray on your personal e-mail account?

7 A. Yes.

8 Q. Have you received any personal e-mails,  
9 any e-mails from Mayor Vincent Gray on your  
10 personal account?

11 A. I don't recall receiving any e-mail from  
12 the mayor.

13 Q. Have you sent any e-mails on your personal  
14 account to Lorraine Green?

15 A. Yes.

16 Q. Have you received any e-mails on your  
17 personal account from Lorraine Green?

18 A. I don't recall that.

19 Q. Have you sent any e-mails, on your  
20 personal e-mail account, to any person having an  
21 interest in the D.C. lottery contract and, by that

1 I mean any person potentially interested or any  
2 person that you know to have bidden on that  
3 particular contract, the contract that was awarded  
4 in 2008?

5 A. I don't recall that.

6 Q. Have you sent any e-mails to Peter Nichols  
7 on your personal e-mail?

8 A. Yes, I have.

9 Q. Have you received any e-mails from Peter  
10 Nichols on your personal e-mail?

11 A. Yes, I have.

12 Q. Have any of them been related to the D.C.  
13 lottery contract?

14 A. I don't recall that.

15 Q. Have any e-mails to or from Mayor Vincent  
16 Gray been related to the D.C. lottery contract?

17 A. No.

18 Q. Any e-mails from Lorraine Green related to  
19 the D.C. lottery contract?

20 A. I don't recall that.

21 Q. Okay. Councilmember Jim Graham, have you

1 sent any e-mails to him on your personal e-mail  
2 account?

3 A. I don't recall that.

4 Q. Have you received any e-mails from  
5 Councilmember Jim Graham?

6 A. I do not recall.

7 Q. Mayor Fenty, did you send any e-mails to  
8 him on your person account?

9 A. Yes.

10 Q. And have you received e-mails, as well?

11 A. Yes.

12 Q. Paul Lundquist, you have already stated  
13 that. How about William Divello, have you sent  
14 any e-mails to him?

15 A. Yes. Yes.

16 Q. Received any e-mails from him?

17 A. I don't recall.

18 Q. Bob Andary, have you sent any e-mails to  
19 him?

20 A. Yes.

21 Q. And have you received any from him?

1 A. Again, I don't recall.

2 Q. Emmanuel Bailey?

3 A. No.

4 Q. What is the Office of -- the OIO?

5 A. That is the Office of Internal  
6 Investigation and Audit, which is an audit  
7 operation within the Office of the Chief Financial  
8 Officer.

9 Q. Do you have -- from the management point  
10 of view, do -- what extent do you communicate, on  
11 a weekly basis, with the head of the Office of  
12 OIO?

13 A. We have a weekly meeting of the senior  
14 executives in which the head of the Office of OIO  
15 sits.

16 Q. So I understand correctly, that complaints  
17 filed in OIO are considered to be confidential?

18 A. Complaint to?

19 Q. Complaints filed in the OIO about various  
20 issues at the agency, for example, about a  
21 contract impropriety?

1 A. Yes.

2 MR. TEMPLE: Let me wait until she  
3 finishes because it's going to disrupt the video.

4 (Ms. Knapp looking for a file.)

5 MS. KNAPP: Here you go.

6 By MR. TEMPLE:

7 Q. And what's your understanding of  
8 confidentiality in that context?

9 A. That when the request is received about a  
10 complaint then, until the investigation is made,  
11 it is simply a charge and you want to be careful  
12 about talking about such issues.

13 Q. Should the filing of a complaint in the  
14 OIO be reported to you, sir?

15 A. A file?

16 Q. Sir?

17 A. I don't understand the question.

18 Q. I said, should the filing of a complaint  
19 by an employee --

20 A. Oh, I see. No.

21 Q. Should the identity of the person filing a

1 complaint be disclosed to you, sir?

2 A. Not necessarily, no.

3 Q. When you say not necessarily, can you  
4 clarify what you mean, please?

5 A. That not all the complaints are disclosed  
6 to me, only the most serious ones.

7 Q. Okay. And to the extent that a complaint  
8 is discussed with you, a most serious complaint,  
9 I'm not clear as to what constitutes, quote  
10 unquote, serious complaints, can you explain,  
11 please?

12 A. Well, you know, the issues of greater  
13 concern about city's financial viability and major  
14 fraud or something of that sort, that would have  
15 repercussions, so I would leave it up to the  
16 judgement of the head of the OIO to alert me.

17 Q. And if the head of the OIO should alert  
18 you, in what matter does -- would he do so?

19 A. He would call me back and say we have  
20 issue.

21 Q. Would he -- in any such a conversation,

1 would he disclose to you the identity of the  
2 complainant?

3 A. Not always.

4 Q. Relative to Mr. Payne, were you advised by  
5 Mr. Bob Andary that Mr. Payne filed a complaint at  
6 some point in the spring of 2008 in the OIO?

7 A. I don't recall that.

8 Q. And if Bob Andary stated as such, would he  
9 be possibly telling the truth?

10 A. I don't know.

11 Q. You have no recollection however of that?

12 A. No, I don't.

13 Q. To what extent, sir, in your practice,  
14 your daily business practices, do you memorialize  
15 developments, meeting developments, incidents or  
16 anything like that, do you keep a diary?

17 A. No, I do not.

18 Q. Do you make a record, an entry record,  
19 anywhere of various developments?

20 A. No, I do not.

21 Q. How would you, for example, know that, at



1     this time, a year and a half from now, that you  
2     were in a deposition here in Temple Law Offices?

3           A.   Only through the secretarial record of my  
4     daily schedule.

5           Q.   Okay.  And your secretary, does she  
6     maintain that record, for example, and preserve  
7     that record, for business purposes?  For example,  
8     can she look back today in April, on April 15th  
9     and say this is what Mr. Gandhi was doing?

10          A.   I really don't know.

11          Q.   So you don't know if she maintained such a  
12     calendar or record; is that correct?

13          A.   That such a record is archived, I don't  
14     know.

15          Q.   I do understand correctly, though, that  
16     you did meet with Mr. Andary, from time to time,  
17     to discuss the business of OIO; is that correct?

18          A.   Yes.

19          Q.   Now, as to, again, the complaints that  
20     were filed with OIO, to what extent would the head  
21     of OIO disclose to your chief of staff the filing

1 of complaints by employees with that office?

2 A. Again, it depends upon the severity of the  
3 complaint.

4 Q. And again, would you expect that the  
5 identity of the complainant would be disclosed to  
6 your chief of staff?

7 A. And again, that is up to the judgment of  
8 the head of OIO.

9 Q. Do you have a whistle-blower policy at the  
10 CFO's office?

11 A. Yes, we do.

12 Q. And what is that policy, sir?

13 A. We simply follow the District's  
14 whistle-blower law.

15 Q. And what is your understanding of the  
16 District's whistle-blower law?

17 A. That a whistle-blower is protected against  
18 any adverse personnel actions.

19 Q. Is there any written communication made by  
20 your office to your managers which articulates  
21 what that law states?

1 A. No.

2 Q. Is there any training, of any nature, by  
3 your management that -- or to your management, for  
4 your management, which explains in detail the  
5 substance of the D.C. whistle-blower law?

6 A. What do you mean by details?

7 Q. So that people understands what the law  
8 actually says, and so, rather than,  
9 parenthetically have some sense of it, is there a  
10 discussion, this is what the law says, this is the  
11 protection to employees, this is what's expected  
12 of management?

13 A. I really don't know.

14 Q. Who would know?

15 A. The Office of Personnel.

16 Q. Have you ever read the D.C. whistle-blower  
17 law?

18 A. No, I have not.

19 Q. During the period February 2008 through  
20 June 2008, and I know I'm asking you to step back  
21 in time, did you have any -- did you learn that

1 Mr. Payne had filed complaints with the D.C.  
2 Inspector's General's Office?

3 A. No, I do not recollect that.

4 Q. I want to -- did you know, at all, that  
5 Mr. Payne had filed a complaint with the OIO  
6 Office during that time?

7 A. I don't recollect that.

8 Q. Did you know that Mr. Payne had concerns  
9 during that time about contract improprieties in  
10 OCFO?

11 A. I do not know that.

12 Q. Do you recall any discussions with your  
13 chief of staff about Mr. Payne's concerns about  
14 contract improprieties with regard to pressures  
15 being placed on him about the lottery contract?

16 A. I don't recall that.

17 Q. Did you at any time in the spring of 2008  
18 review Mr. Payne's personnel file?

19 A. No.

20 Q. Have you ever reviewed his personnel file?

21 A. No.

1 Q. Now, have you had meetings with members of  
2 the City Council regarding the lottery contract  
3 award and, when I say meetings, I'm not referring  
4 to Council hearings, I'm not referring to  
5 briefings related to the legislative review of the  
6 D.C. lottery contract, I'm talking about meetings  
7 with members of Council to discuss the actual  
8 contract award?

9 A. I had a meeting about the contract, the  
10 D.C. lottery contract with members of the Council.

11 Q. Do you have any meetings with Jack Evans  
12 about the D.C. lottery contract?

13 A. Yes.

14 Q. Did you have any meetings with Mayor Gray  
15 about the D.C. lottery contract?

16 A. When he was chairman of the Council, yes.

17 Q. And how many meetings did you have with  
18 him, do you recall?

19 A. I don't recall how many.

20 Q. Those meetings with Mr. Evans and  
21 Mr. Gray, they would be recorded on your calendar,

1       presumably?

2           A.   Generally, yes, but many of times, these  
3       meetings are impromptu and they call and I show  
4       up.

5           Q.   How about in your office, do they actually  
6       come to your office as well?

7           A.   No.

8           Q.   And have you had meetings with  
9       Councilmember Jim Graham?

10          A.   No, I don't recall that meeting?

11          Q.   Have -- do you recall any conversations by  
12       phone with councilmembers, with any councilmember,  
13       in which Mr. Payne was discussed?

14          A.   I don't recall.

15          Q.   When you say, you don't recall, what does  
16       that mean to you, so that we can be clear?

17          A.   That I don't recall that I had any  
18       conversations with any councilmembers about the  
19       question that you raised.

20          Q.   So you don't remember having such a  
21       conversation; is that right?

1 A. That is correct.

2 Q. You were familiar with Mr. Payne when he  
3 was hired, his background; is that correct?

4 A. In the elementary sense, yes.

5 Q. And you were involved in the decision to  
6 promote him to the director of the contract --  
7 director of contracts?

8 A. No, I have not.

9 Q. Did you have some expectation, however, of  
10 him in that position?

11 A. Not particularly.

12 Q. You didn't expect him to enhance the  
13 productivity of your office?

14 A. Not any more than I expect any other  
15 member of the staff.

16 Q. But your expectation was for productivity,  
17 transparency and accountability; is that correct?

18 A. As it is of all the members of the CFO  
19 staff.

20 Q. Just to -- briefly, sir, can you describe  
21 your management style, please?

1           A. I do not micromanage.

2           Q. Uh-huh.

3           A. I have, basically, left the managers, in  
4 each of the major agencies, to run the shops. I  
5 have very specific goals, that they know, that  
6 they are expected to achieve, and I judge them by  
7 their results.

8           Q. By, I'm sorry?

9           A. By the results they produce.

10          Q. Have you, from time to time, threatened to  
11 fire any of your managers?

12          A. What do you mean by, threatened?

13          Q. If this does not happen, your job is on  
14 the line?

15          A. Generally, yes. The people have a very  
16 clear idea of what is expected of them and it is  
17 understood that if certain particular specific  
18 results are not produced, then their jobs, as well  
19 as my job, is on the line.

20          Q. But you tell them that, you have  
21 communicated that to them?



1           A. Right, yes.

2           Q. And you don't see a problem with telling  
3 people that, if you don't produce certain results,  
4 you could be fired, your job is on the line?

5           A. I have no problem.

6           Q. How is one's productivity or lack of  
7 productivity communicated to you?

8           A. By the results that are produced.

9           Q. Have you looked, for example, speaking to  
10 Mr. Payne, have you looked, for example, in 2006,  
11 at the results that he produced?

12          A. Well, I wouldn't go to the level of  
13 Mr. Payne. My -- the expectation that you're  
14 talking about, at the senior most level, the  
15 deputy's level, the heads of the offices.

16          Q. So in 2006 or 2007, you would have -- you  
17 would have no first-hand knowledge about  
18 Mr. Payne's productivity?

19          A. No, I do not.

20          Q. And would you have discussions, though,  
21 with your chief of staff about Mr. Payne's

1 productivity?

2 A. No, I do not.

3 Q. The D.C. lottery contract was a major  
4 contract for the agency?

5 A. It was.

6 Q. Did you monitor the actual procurement  
7 process?

8 A. No, I did not.

9 Q. How would you -- how were you advised,  
10 when you say -- let me just be clear. You  
11 realized that the contract was a controversial  
12 procurement given the politics of the contract?

13 A. Yes.

14 Q. To what extent were you briefed by your  
15 staff on the development regarding that  
16 procurement?

17 A. Well, this would be discussed at our  
18 senior staff meeting in my office.

19 Q. Did you have any particular concerns, as a  
20 CFO, about that particular procurement?

21 A. Yes, we do.

1 Q. And what were your concerns?

2 A. Concern where that, if the lottery  
3 contract is not approved, then we will have major  
4 issues about revenues that will not be realized  
5 and, also, that lottery, as it is, as it was  
6 before the new contract was installed, isn't an  
7 adequate lottery. The equipment, the machinery,  
8 the processors are roughly 35 years old, that it  
9 would expose the City and the District, of course,  
10 to a variety of issues but, above all, the  
11 integrity of the lottery cannot be assured and the  
12 revenues cannot be assured, that was a paramount  
13 concern.

14 Q. To that extent, you are aware of  
15 Mr. Payne's achievement relative to the awarding  
16 of that particular contract?

17 A. Not in terms of achievements. That we  
18 have a lottery contract out there and it has to be  
19 awarded.

20 Q. When I say achievements, what is your  
21 understanding, as we speak, as to Mr. Payne's

1     role, the role that he played in the successful  
2     awarding of that contract?

3           A.   Only to the extent that he was in charge  
4     of the lottery contract procurement.

5           Q.   Were you aware that there was a bid  
6     protest challenging that contract?

7           A.   Yes.

8           Q.   Did you monitor that particular contract?

9           A.   No, I did not.

10          Q.   Are you aware -- you're aware that the bid  
11     protest, the outcome of that was in your  
12     particular favor?

13          A.   Yes.

14          Q.   It upheld the contract award?

15          A.   I'm sorry?

16          Q.   It upheld the contract award?

17          A.   Yes.   Yes.

18          Q.   Did you attribute that particular  
19     decision, did you attribute any credit to  
20     Mr. Payne relative to that decision?

21          A.   No.

1 Q. Okay. Have you had meetings with Eric  
2 Payne?

3 A. No.

4 Q. What do you know about him?

5 A. That he's in charge of -- that he was in  
6 charge of the lottery procurement. That he was in  
7 charge of the Procurement Office.

8 Q. So you've had meetings where he's been  
9 present at meetings with you.

10 A. I don't recall any specific meetings, but  
11 that's the extent of my response on that.

12 Q. Directing your attention to 2007, did you  
13 have communication -- did you have any concerns  
14 about Eric's Payne's performance in 2007?

15 A. Yes. Yes. I don't know the time frame  
16 but, generally, there were issues about  
17 Mr. Payne's behavior, that he was difficult to get  
18 along with and that, you know, there were concerns  
19 about his supervisory, managerial style.

20 Q. In 2007, had you received any type of  
21 writing, from anyone, any of your managers,

1 regarding issues of Mr. Payne's management style?

2 A. Not in writing, not that I recall.

3 Q. And how would you have known about his  
4 management style?

5 A. Through our senior staff meeting.

6 Q. And who would have reported that that  
7 there were concerns about his management style?

8 A. Repeat the question.

9 Q. Who would have reported that to you?

10 A. It would have been reported to me --  
11 should have been reported to me by our chief of  
12 staff, director of operation, and the head of the  
13 so-called OMA or the missions support activities,  
14 of which procurement is one part.

15 Q. In such a discussion, would you have asked  
16 what type of results was he achieving in his work?

17 A. That issue was not discussed with me.

18 Q. To the extent that there were concerns  
19 about his management style, what was your  
20 response?

21 A. That we cannot tolerate that, that we

1 cannot have someone who is rude, who cannot get  
2 along with people and certainly cannot have  
3 someone --

4 MS. KNAPP: Doctor, I apologize for  
5 interrupting, I think that you're moving the cup  
6 up and down and --

7 THE WITNESS: Oh, I'm so sorry.

8 MS. KNAPP: -- it's getting in the way of  
9 the microphone.

10 THE WITNESS: I'm so sorry. Repeat the  
11 question, again, please.

12 BY MR. TEMPLE:

13 Q. What would have been your response to that  
14 comment?

15 A. Right. That we cannot allow anyone on our  
16 staff that would be rude to others, would be  
17 difficult to work with, that managerial and  
18 supervisory style would be harmful to the  
19 subordinates and general morale of our employees.

20 Q. What was done in response to your comment?

21 A. Repeat the question.

1 Q. What was done in response to your comment?

2 A. My expectation was that, that would have  
3 been addressed, counseling should have been done.  
4 Counseling should have been done.

5 Q. What is counseling?

6 A. Counseling would mean that Mr. Payne's  
7 supervisors should sit down with him and tell him,  
8 look, this kind of attitude and behavior is  
9 frowned upon and we do not tolerate that.

10 Q. To the extent that you were told that  
11 there were complaints about Mr. Payne, were you  
12 ever told that there were written complaints about  
13 Mr. Payne?

14 A. I don't know that.

15 Q. Were you ever told who made those  
16 complaints?

17 A. No, I do not know that.

18 Q. Were you ever told to the extent to  
19 which -- were you ever -- did you inquire as to  
20 whether those complaints were valid or not?

21 A. I do not know that.



1 Q. You would not have said, well, there's  
2 complaints and just because somebody makes a  
3 complaint that, then, it has some legitimacy, I  
4 presume?

5 A. My expectation is that when that issue is  
6 brought to me, that the person who brings to me,  
7 Mr. Payne's supervisor would have assured that  
8 these are legitimate complaints.

9 Q. How would they have done that, under your  
10 policies and procedures, in your personnel office?  
11 Let me rephrase the question.

12 A. Yes.

13 Q. What would be your expectation, under your  
14 personnel policies and procedures, that his  
15 supervisor would have vetted those complaints?

16 A. That is my expectation of a manager.

17 Q. How would he have done so based upon your  
18 expectations?

19 A. I don't understand the question.

20 Q. I understand that's what you expect of a  
21 manager?

1 A. Right.

2 Q. You have policies and procedures --

3 A. Right.

4 Q. -- that govern these types of issues?

5 A. Right.

6 Q. And you understand what these policies and  
7 procedures are as a CFO; isn't that correct?

8 A. Right.

9 Q. And what would you have expected of your  
10 manager in accordance with your policies and  
11 procedures?

12 A. That they assure that there is a  
13 harmonious working environment in a office.

14 Q. I'm not talking about that. I'm talking  
15 about to the extent that a complaint is made about  
16 an employee, what is the proper response of a  
17 manager relative to the investigation of such a  
18 complaint?

19 A. That he or she should make sure that these  
20 are legitimate complaints.

21 Q. How?

1 A. That's simply a matter of commonsense.

2 Q. Well, explain to me, in commonsense, how?

3 And quite frankly, I don't want to know  
4 commonsense. I want to know your policies and  
5 procedures and what they require when a complaint  
6 is made against a manager, in terms of the  
7 investigation or resolution of that complaint?

8 A. Well, I'm sure there must be personnel  
9 policy. I have not checked them out for myself.

10 Q. You don't know what they are?

11 A. I'm sure there are, but I -- listen, I do  
12 not read all the personnel policies myself.  
13 Expectations are that, as a manager, you make sure  
14 that, if there are complaints, that before you  
15 bring those complaints to the chief financial  
16 officer, that they are a legitimate complaint.

17 Q. The point is, first and foremost, that you  
18 don't know what those policies and procedures are;  
19 is that what you're saying today?

20 A. I do not know specific. If you ask me to  
21 say, find me the particular procedure policy, I

1 would not be able to identify those.

2 Q. How can you tell me, then, what your  
3 expectation is, if you don't have a knowledge  
4 predicate for that expectation.

5 MS. EFROS: Objection.

6 MR. TEMPLE: Noted. You can answer the  
7 question.

8 MS. EFROS: Do you understand the  
9 question?

10 MR. TEMPLE: Excuse me, first of all, let  
11 me stop for a minute. That is improper, excuse  
12 me, I'm speaking. Excuse me. I asked this  
13 gentleman if he didn't understand a question, at  
14 the outset, to advise me. Your interruption of  
15 that nature, constitutes a speaking objection. It  
16 is inappropriate and unacceptable. I will  
17 continue. If you want to make a record, please  
18 do.

19 MS. EFROS: I object to the question. I  
20 don't understand the question. I have a right as  
21 counsel to understand the question.

1 MR. TEMPLE: Noted.

2 BY MR. TEMPLE:

3 Q. Did you understand the question?

4 A. No, I do not.

5 MR. TEMPLE: Read it back, please.

6 (The court reporter complying.)

7 THE WITNESS: I don't understand that  
8 question.

9 BY MR. TEMPLE:

10 Q. Let me ask you this. How can you tell me  
11 what the expectation is from a manager if you  
12 don't know what the personnel policies and  
13 procedures are, that he is expected to follow when  
14 there is an investigation of a complaint?

15 MS. EFROS: Objection.

16 A. I am somewhat. Also, the question that  
17 you are asking me, a manager, in any office, is  
18 expected to know, if the complaint comes to him or  
19 her, that that's a legitimate complaint and, if he  
20 or she doesn't know that, then I don't think he or  
21 she belongs in our shop.

1 Q. Was there a time --

2 A. For that matter, any shop.

3 Q. So you would expect, then, that the  
4 managers actually would be in accordance with the  
5 applicable personnel policies and procedures; is  
6 that correct?

7 A. Yes.

8 Q. And those policies and procedures spell  
9 out guidelines, I take, as to how a manager should  
10 handle a complaint against --

11 A. Yes.

12 Q. -- one of your managers?

13 A. Yes.

14 Q. Now, did there come a time in 2007,  
15 Mr. Gandhi, when you thought that Mr. Payne should  
16 be fired?

17 A. I don't know the exact dates, but yes.

18 Q. And you say you don't know the exact  
19 dates?

20 A. No, I do not.

21 Q. Is there any reference point that would

1 help you to remember the date?

2 A. I don't think I'll be able to pinpoint the  
3 dates, but the guidance that I have provided, and  
4 it's a general guidance, that any time a manager  
5 is abusive to his subordinates creates a morale  
6 issue among the subordinates and is not willing to  
7 work cooperatively with other managers, then I  
8 expect his supervisor or her supervisor to take  
9 corrective action.

10 Q. Was that -- how -- in terms of time, was  
11 that at or near the time that he was actually  
12 fired?

13 A. Repeat the question again.

14 Q. Was your -- I asked you, did there come a  
15 time when you thought that Mr. Payne should be  
16 fired. Was thought or near the time that he was  
17 actually fired?

18 A. It would be generally at the time that he  
19 was actually fired.

20 Q. Prior to that time and prior to the award  
21 of the lottery contract, did you have a view that

1 Mr. Payne should be fired?

2 A. I cannot locate the timing as to when the  
3 contract was awarded and when he was fired, but as  
4 I understand it, that Mr. Payne was indeed in  
5 charge of the lottery contract throughout this  
6 period.

7 Q. To be clear, Mr. Payne was fired in  
8 January 2009.

9 A. Okay.

10 Q. The lottery contract was awarded in early  
11 2008.

12 A. Okay.

13 Q. Did you think he should have been fired in  
14 2007?

15 A. I don't think those issues were raised at  
16 that time. My recollection is that his abusive  
17 behavior, as well as his inoperative working  
18 relationship, was heightened just about the time  
19 that he was fired. It had nothing to do with the  
20 awarding or the lottery contract controversy.

21 Q. Is that the only time, sir, that you



1 thought that Mr. Payne should be fired?

2 A. Right.

3 Q. And to the extent that you thought he  
4 should be fired, what was --

5 A. Wait one moment. I -- whether he should  
6 be fired or not has to be the decision of his  
7 supervisor. My expectation is, since my style is  
8 not to micromanage an agency, my expectation of  
9 his supervisor is that I cannot have a manager  
10 that creates this morale issue and that you manage  
11 this issue. As to how he would manage, you know,  
12 it's up to the manager --

13 Q. My question --

14 A. -- but I do not want that situation  
15 continued.

16 Q. My question was: Is that the only time  
17 that you thought that Mr. Payne should be fired?

18 A. Right.

19 Q. Your answer is yes?

20 A. Yes. The only time and the only reason.

21 Q. Just following up on that, was there a

1 communication with you that influenced that  
2 particular viewpoint that he should be fired, did  
3 somebody tell you something, at the point in time,  
4 that led you to believe that he should be fired?

5 A. I don't understand the question.

6 Q. You thought he should be fired at or near  
7 the time that he was fired, yes? In January 2009  
8 he was fired. At or near that time, you thought  
9 that he should be fired?

10 A. No. Again, I'm not making myself clear.  
11 Any person, not just Mr. Payne, who has these  
12 problems of interpersonal behavior and out of  
13 supervisory behavior, any person in my shop would  
14 have to be managed by his or her supervisor.

15 Q. That's not my question, and I understand  
16 your question. I don't want you to think for a  
17 minute that I don't understand -- answer, excuse  
18 me.

19 A. I need to understand your question.

20 Q. My question spoke not about any person.  
21 My question spoke about Mr. Payne, in particular,

1 and the question was: Did there come a time that  
2 you thought that Mr. Payne, not any person, should  
3 be fired, and your answer was yes and I want to be  
4 clear about that. And your answer was that you  
5 thought that at or near the time that he was  
6 fired, am I wrong?

7 A. Well, these issues of Mr. Payne are simply  
8 an accumulation that -- just because somebody got  
9 abusive at one point and that is enough of a  
10 reason to let him go, there is simply the question  
11 of pattern and that pattern is observed over that  
12 time period and, at some point, when the  
13 supervisor of Mr. Payne decides that this  
14 particular situation cannot be corrected through  
15 counseling, then I would say, well, look, you have  
16 to decide yourself how you're going to manage  
17 this.

18 Q. Dr. Gandhi --

19 A. Yes.

20 Q. -- I asked you a very simple question.

21 A. Well, I don't think it's a simple

1 question. You asked me to pinpoint a particular  
2 time and reason and I don't have that.

3 Q. I asked you about Mr. Payne.

4 A. Yes.

5 Q. I asked you, did there come a time when  
6 you thought that Mr. Payne, for whatever reason,  
7 should be fired?

8 A. Not in particular, no, because as I keep  
9 saying to you, sir, that it is not my decision to  
10 fire Mr. Payne.

11 Q. Did you ever have a communication with  
12 Paul Lundquist where the subject of Mr. Payne's  
13 firing was discussed?

14 A. No.

15 Q. To the extent that Mr. Payne was of  
16 concern to you, were you ever briefed on what was  
17 the reason why Mr. Payne should be fired?

18 A. No.

19 Q. Did you ever have a meeting with  
20 Ms. Jacobs, at any point, where upon she told you  
21 that she thought that he should be fired?

1 A. No.

2 Q. When did you first learn that he was going  
3 to be fired?

4 A. Just about the time when he was actually  
5 fired.

6 Q. How did you learn that?

7 A. I was told by his supervisor.

8 Q. By whom?

9 A. Mr. Lundquist.

10 Q. And how were you told?

11 A. In the one-on-one meeting that I had with  
12 Mr. Lundquist.

13 Q. Now, that's a meeting in your office?

14 A. Yes.

15 Q. And what was the purpose of that meeting?

16 A. I usually sit down with each manager, each  
17 heads of the office, one-on-one, you know, on a  
18 regular basis, to see what the issues are in that  
19 particular office.

20 Q. And -- so that was just a general meeting  
21 then, rather than a specific meeting?

1           A.   Right.

2           Q.   And what were you told about Mr. Payne in  
3   that meeting?

4           A.   That, basically, that Mr. Payne was beyond  
5   counseling and that he has let Mr. Payne go and  
6   that is -- I said, that is your decision.

7           Q.   You -- that was not your decision then,  
8   you had nothing to do then with -- well, let me  
9   rephrase the question.  It was not your decision  
10   that Mr. Payne should be terminated; is that your  
11   testimony?

12          A.   That is correct.

13          Q.   Had you had any meetings with  
14   Mr. Lundquist prior to that particular meeting in  
15   which he discussed with Mr. Payne's performance?

16          A.   Numerous meetings.

17          Q.   Where he discussed Mr. Payne's  
18   performance?

19          A.   Right.

20          Q.   And how many meetings was this?

21          A.   I don't recall that.  Remember, these are

1 general meetings that I have, and Mr. Payne would  
2 be one of the several topics that I would talk  
3 about with him, because he had numerous issues  
4 under his jurisdiction.

5 Q. Who would have been at some of those  
6 meetings with you and Mr. Lundquist?

7 A. No one.

8 Q. Just meetings with you and Mr. Lundquist?

9 A. Right.

10 Q. Did he ever give you a single piece of  
11 paper in which --

12 A. No.

13 Q. Let me finish the question. In which he  
14 explained concerns about Mr. Payne's performance?

15 A. Not that I recall.

16 Q. Did he ever tell you that he had conducted  
17 an investigation about these complaints?

18 A. That he did -- he did counseling of  
19 Mr. Payne.

20 Q. Do you participate in the decision to fire  
21 anyone?

1           A.   Fire?

2           Q.   Participate in decisions to fire any of  
3 the managers at the CFO?

4           A.   Only at the highest level, that is the  
5 deputy level.

6           Q.   You are aware that there was a conflict  
7 between Mr. Payne and David Tseng at some point in  
8 time relative to the awarding of legal contracts?

9           A.   I would not characterize it as a conflict,  
10 but the issue was there, yes.

11          Q.   How would you characterize it?

12          A.   That there is some concern about a  
13 particular RFP that was issued and we had two RFPs  
14 out there and I said, "My God, how could you have  
15 two RFPs out there?"

16          Q.   Do you think it -- I'm sorry.

17          A.   That was the extent of issue.

18          Q.   Do you think it's appropriate for yourself  
19 to meet with a potentially interested vendor in a  
20 contract that's being issued by the office of --  
21 the CFO's office?



1           A. Repeat the question again.

2           Q. Do you think it's appropriate for yourself  
3 to meet with a person who is interested in bidding  
4 on a contract?

5           A. Only to the extent that, when they  
6 approach me, I would say that there's a  
7 procurement office and you should go and meet with  
8 them.

9           Q. Relative to Mr. Tseng and Mr. Payne's  
10 issue, do you think it was more fundamental rather  
11 than being a concern about a particular contract  
12 about who had the actual authority; i.e., the  
13 Office of General Counsel or the Office of  
14 Contract Procurement to issue a contract to -- for  
15 legal purposes?

16          A. Well, what you want to remember, sir, is  
17 that there is only one office of the chief  
18 financial officer and I do not want two parts of  
19 that office warring with each other and what I  
20 understand from that issue is that, that was the  
21 case and the result was that there were two RFPs

1 out there and, in my assessment, that's a no-no.

2 We look stupid out there and that is the extent of  
3 my understanding.

4 Q. Did you know that Mr. Tseng filed a  
5 complaint with Mr. Payne in OIO?

6 A. I don't know that.

7 Q. To the extent that there was this  
8 disagreement between the two offices, what did you  
9 do to resolve it?

10 A. Only to tell them that I want only one RFP  
11 out there, nothing beyond that.

12 Q. So you didn't deal with the actual issue  
13 of contract authority?

14 A. No, but I do want to make sure that we do  
15 not look stupid outside.

16 Q. Do you know Mike Teller?

17 A. Yes, I do.

18 Q. How do you know him?

19 A. He's one of my deputies.

20 Q. And do you know his past background at the  
21 Department of Motor Vehicles?

1 A. Repeat the question.

2 Q. Do you know anything about his background  
3 at the Department of Motor Vehicles?

4 A. I knew that he worked there.

5 THE WITNESS: May interrupt, I need some  
6 water.

7 MR. TEMPLE: We can take a --

8 THE WITNESS: Just plain water.

9 MR. PAYNE: Let's take a break.

10 MR. TEMPLE: Let's take a five-minute --

11 MS. EFROS: Yeah, but let's try to limit  
12 it to about five minutes.

13 MR. TEMPLE: I can use the restroom, too.

14 THE WITNESS: Okay.

15 THE VIDEOGRAPHER: We are off the record  
16 at 10:00.

17 (Brief recess.)

18 THE VIDEOGRAPHER: We are back on the  
19 record at 10:07.

20 By MR. TEMPLE:

21 Q. I was asking you about Michael Teller and

1 I asked you, do you know him?

2 A. Yes, I do.

3 Q. And were you aware that Mr. Payne had some  
4 concerns about contractual improprieties, on  
5 Mr. Teller's part, in April 2008?

6 A. No, I am not.

7 Q. Were you aware that Mr. Payne filed an OIO  
8 complaint --

9 A. No, I was not.

10 Q. Let me finish the question.

11 A. I'm sorry.

12 Q. -- relative to Michael Teller's  
13 contractual practices?

14 A. No, I do not.

15 Q. And Mr. Lundquist did not have any  
16 communication with you, at all, about such a  
17 complaint?

18 A. No.

19 Q. Did anyone from OIO have any communication  
20 with you about such a complaint?

21 A. No.

1 Q. And Ms. Jacobs never had such a discussion  
2 with you?

3 A. No.

4 Q. Back for a minute to the RFPs, the legal  
5 RFPs, who issued those RFPs, which offices?

6 A. Office of Procurement.

7 Q. And you know Jo Ann Smoak?

8 A. Yes.

9 Q. Do you have any recollection about her  
10 management style?

11 A. What do you mean by that?

12 Q. To the extent that were there complaints  
13 about her management style?

14 A. I do not recall that.

15 Q. And to the extent that you had concerns  
16 about Mr. Payne's management style, you are aware,  
17 are you not, of Mr. Lundquist's response, in  
18 writing, in detailed writing, to OIO, regarding  
19 concerns about his management style in 2007?

20 A. I am not aware of that.

21 Q. And you have not seen the written

1 submission?

2 A. No, I have not.

3 (Deposition Exhibit No. 3 was marked for  
4 identification.)

5 BY MR. TEMPLE:

6 Q. I'm showing you what is marked as  
7 Plaintiff's Exhibit 3. Take a minute to read it  
8 and just look up when you are finished, please.

9 A. Okay.

10 Q. I note, on the second part, the second  
11 e-mail from you, sir --

12 A. Right.

13 Q. -- I note that is your personal e-mail; is  
14 that correct?

15 A. Right.

16 Q. And I also note that it's Friday, April  
17 18th.

18 A. Right.

19 Q. And it is 10:39 a.m.

20 A. Right.

21 Q. That is during the business day; is that

1 correct?

2 A. Right, it is.

3 Q. Is there some reason that you would be  
4 sending an e-mail on your personal account at  
5 10:30 during the business day to Ms. Lynnette  
6 Jones, Angell Jacobs, David Tseng and Cynthia  
7 Gross?

8 A. There is no particular reason except that  
9 I would have both my e-mail open, the office as  
10 well as personal e-mail, because the -- in a given  
11 day, when I would have sent something in the  
12 morning, early morning, and they would simply say,  
13 reply, and that response, many of times, comes to  
14 my personal e-mail, so I keep both of them open to  
15 make sure that I'm not missing anything.

16 Q. As a practice, Mr. Gandhi, wouldn't you,  
17 for transparency purposes, want all communication  
18 related to the government to take place on your  
19 professional or government e-mail during the  
20 business day?

21 A. Ideally, yes.

1           Q. Well, you have a choice, don't you, and  
2 quite a simple choice as to whether to send  
3 something on personal or whether to send it on  
4 government e-mail; isn't that correct?

5           A. No, I don't have that early in the  
6 morning.

7           Q. This is at 10:30 in the morning.

8           A. I understand that but, as I keep saying,  
9 that I have both e-mails open, whatever is  
10 convenient to me, I would just do it.

11          Q. So I then take, that your answer then, is  
12 an exception to what you told me earlier, that you  
13 only send personal e-mails early in the morning,  
14 you then -- you're now saying that you will send  
15 personal e-mails, during the business day, if it's  
16 convenient --

17          A. If it's convenient.

18          Q. Is that correct?

19          A. Yes, it is.

20          Q. So in this particular situation, I direct  
21 your attention to the e-mail from you and you read



1 it, you state as follows: You all had a breakfast  
2 with Eric Goulet on Monday and Eric Goulet, at the  
3 time, was with the City Council; is that correct?

4 A. Right.

5 Q. And I need some talking points on a  
6 variety issues, including '08 supplemental,  
7 loading, lottery, DCPS, et cetera. Angell, please  
8 coordinate and make sure that I get them by EOB  
9 Friday. Also, I will call a little later today to  
10 talk about lottery issue raised by Councilmember  
11 Graham.

12 A. Right.

13 Q. What was the lottery issue that you were  
14 referring to?

15 A. There was some concern by Mr. Graham  
16 about -- I don't exactly recall, but a  
17 subcontractor on a LSDBE contractor and I wanted  
18 to make sure that I knew what the details are.

19 Q. How was that concern communicated to you  
20 by Mr. Graham?

21 A. I think it is -- I don't recall how he --

1     how I learned about that, whether it was  
2     newspaper, staff briefing, et cetera.

3           Q.   What -- when you say, subcontractor, LSDBE  
4     contractor, can you explain --

5           A.   Well --

6           Q.   Let me finish. -- can you explain, in a  
7     little more detail, what the issue was?

8           A.   That -- that Mr. Graham was not entirely  
9     happy about the issue of the subcontracting.

10          Q.   The subcontracting on the lottery?

11          A.   That is correct.

12          Q.   Okay. And that would have been with  
13     Warren Williams?

14          A.   That name rings a bell, yes.

15          Q.   Did Mr. Graham tell you that?

16          A.   I don't recall that, but the issue was  
17     there and I wanted to make sure that I know what  
18     was the issue.

19          Q.   Okay. Did you have a discussion at some  
20     point later on that day about that particular  
21     issue with your staff?

1           A.   I may have; I don't remember.

2           Q.   And did you have subsequent  
3           communications -- did you have communication with  
4           Mr. Graham, after this day, regarding his concern?

5           A.   I don't recall that.

6           Q.   And do you have phone conversations, at  
7           all, with Mr. Graham regarding this concern?

8           A.   I don't recall that.

9           Q.   And did you receive any e-mails from  
10          Mr. Graham or anyone on his staff, on your  
11          personal e-mail, about this particular concern?

12          A.   I don't recall that.

13          Q.   And when you say you don't recall, you  
14          don't know whether that's the case, is it  
15          possible?

16          A.   Yes.   I don't know.

17          Q.   It is possible that you received -- is it  
18          possible that you would have received e-mails on  
19          this particular issue?

20          A.   It is possible.

21          Q.   Was this issue actually resolved by you?

1 A. Right now, I really don't know.

2 Q. I apologize --

3 A. Yes.

4 Q. -- Dr. Gandhi, but I'm not clear here on  
5 this particular issue, this concern of Mr. Graham,  
6 relative to a subcontractor. At this particular  
7 point, the contract award has been made; is that  
8 correct?

9 A. I really don't recall the chronology of  
10 that.

11 Q. I'm telling you that the contract award  
12 had been made as of April 2008.

13 A. All right.

14 Q. Okay. And to the extent that Mr. Graham  
15 had a problem with the subcontractor, the concern,  
16 can you recall the specific nature of the concern  
17 and what he wanted and how he wanted it to be  
18 resolved?

19 A. No, I don't recall. Let me enlighten you  
20 about something here.

21 Q. Please.

1           A. I'm the chief financial officer of an  
2           enterprise with a ten billion dollar budget. I  
3           have enormous amount of responsibilities and  
4           concerns and there are far greater issues, far  
5           greater issue, on a given day, than Mr. Payne, or  
6           a given contract, so I don't recall all those  
7           things that you keep on asking me and asking me  
8           again. So when I said, I don't recall, I don't  
9           remember, you should take that on its face value.

10          Q. Let me explain something to you now --

11          A. Yes, sir.

12          Q. -- and I listened to you attentively.

13          A. And I'm going to listen to you  
14          attentively.

15          Q. You're in litigation.

16          A. Yes.

17          Q. You're a party defendant.

18          A. Yes.

19          Q. Okay. And you have ratings and  
20          communications with people that are at issue --

21          A. Yes.

1           Q.  -- and what is at issue is not just the  
2           fact of, with all due respect, what you do or even  
3           what the president of the United States does, in  
4           this particular country and this democracy, when  
5           people's lives are affected, Mr. Payne is a human  
6           being who has rights, that are at issue and that's  
7           why we're here, so I apologize to the extent that  
8           I am imposing on you, sir; however, I am  
9           duty-bound in protection of Mr. Payne to ask you  
10          questions based upon the evidence that exists or  
11          that we think exist and so you may not like or  
12          appreciate my questions, but I'm going to keep  
13          asking you and I want to know answers and that's  
14          the way it is.  So I apologize to that extent.  I  
15          don't want to get into a tit for tat --

16          A.  You must listen to me, sir.

17          Q.  No, I must not --

18                MS. EFROS:  Okay.  Dr. Gandhi, there's no  
19          question pending.  Let him ask the --

20                MR. TEMPLE:  Thank you.

21                MS. EFROS:  Let him ask his next question.

1 MR. TEMPLE: Thank you.

2 THE WITNESS: But can I -- no, okay.

3 MS. EFROS: Listen to the questions,  
4 answer the questions, if you don't recall the  
5 answer, then say you don't recall.

6 THE WITNESS: Okay. Sure.

7 (Deposition Exhibit No. 4 was marked for  
8 identification.)

9 BY MR. TEMPLE:

10 Q. I'm going to show you what's marked as  
11 Exhibit 4.

12 MS. EFROS: Is this Exhibit 4?

13 Q. Take a moment to look at it, please.

14 A. Yes, sir.

15 Q. I'm directing your attention to the e-mail  
16 from you --

17 A. Uh-huh.

18 Q. Dated May 15th, 2008, at 1:30 p.m.

19 A. Uh-huh.

20 Q. You state that I need a meeting with  
21 Angell, Lucille and Paul on procurement and

1 personnel this afternoon at four o'clock. Do you  
2 recall having a meeting on that day before this  
3 e-mail with Bob Andary?

4 A. I don't recall the meeting.

5 Q. Do you recall that -- do you have any  
6 personal knowledge about Eric Payne being demoted  
7 in July of 2008?

8 A. I knew that there was a reassignment in  
9 the personnel office, but it wasn't a demotion, as  
10 I understand it.

11 Q. Were you involved in that decision, in any  
12 way -- let me strike that. Were you consulted in  
13 the reassignment of Mr. Payne?

14 A. No.

15 Q. Were you briefed on the reassignment of  
16 Mr. Payne?

17 A. Not -- no.

18 Q. Do you know why he was reassigned?

19 A. I assume -- well, I don't know why, but  
20 the presumption here on my part is that issues of  
21 managerial and supervisory issues.



1 Q. Did Angell or Paul ever tell you why  
2 Mr. Payne was being reassigned?

3 A. No.

4 Q. Did you know that his responsibilities  
5 were stripped from him?

6 A. Managerial responsibilities, yes.

7 Q. Do you know that he was put in a cubicle?

8 A. That, I don't know.

9 Q. And do you know that his secretary was  
10 taken away from him?

11 A. That, I don't know.

12 Q. Do you know that his subordinate became  
13 his manager?

14 A. That, I don't know.

15 Q. I'm showing you what was marked as  
16 Plaintiff's Exhibit 1. Before we start on this,  
17 have you seen this affidavit before?

18 A. No, I have not.

19 Q. I'm going to ask you to take your time to  
20 read it --

21 A. Okay.

1 Q. And to let me know --

2 A. The whole thing?

3 Q. The entire thing.

4 A. Okay.

5 (The witness reading Plaintiff's Exhibit  
6 No. 1.)

7 BY MR. TEMPLE:

8 Q. I want to confirm, you have not seen this  
9 affidavit before today; is that correct?

10 A. That's correct.

11 Q. Directing your attention to paragraph  
12 nine, please.

13 A. Nine?

14 Q. Paragraph nine.

15 A. Oh, paragraph nine. Okay.

16 Q. On page five, Payne writes, "Relative to a  
17 meeting that he had with Mr. Graham and his staff,  
18 Graham said that he had a bone to pick with me,  
19 instead of telling me what it was, he said, I've  
20 discussed with Gandhi and he'll discuss it with  
21 you. Just know that I'm not happy." Did you have

1 any discussions with Councilmember Graham about a,  
2 quote unquote, bone that he had to pick with Mr.  
3 Payne?

4 A. I do not recall that particular  
5 discussion.

6 Q. You don't recall any discussion, based on  
7 your answer so far, with Mr. Graham about the  
8 lottery contract and problems that he had with it?

9 A. No.

10 Q. Directing your attention to paragraph ten,  
11 please.

12 A. Uh-huh.

13 Q. Do you recall a meeting with then  
14 Councilmember -- Council Chairman Gray on or about  
15 May 5th 2008, in Councilmember Gray's office?

16 A. I don't know about a particular date, but  
17 I did have a meeting with Chairman Gray.

18 Q. And do you recall Mr. Payne being in  
19 attendance as well as other staff at that meeting?

20 A. There were other staff at that meeting,  
21 but I cannot specifically recall Mr. Payne there.

1 Q. Okay. It would not have been unusual for  
2 Mr. Payne to be in attendance at such a meeting  
3 since he was a responsible party for the lottery  
4 contract?

5 A. Right.

6 Q. Do you recall Mr. Gray asking you to  
7 remain behind at the conclusion of that meeting  
8 and you meeting with him privately?

9 A. Yes, I do.

10 Q. And do you recall after that meeting, when  
11 you returned to your office, requesting Angell and  
12 Mr. Payne to come to your office?

13 A. I do not recall. I'm sorry, go ahead.

14 Q. To meet with you?

15 A. I don't recall that.

16 Q. Do you recall any communication with  
17 Mr. Payne in your office, at any time, when you  
18 asked him to consider canceling the lottery  
19 contract or reopening the process?

20 A. I don't recall that.

21 Q. Did you ever ask Mr. Payne, can this

1 lottery contract be reopened?

2 A. I don't recall that.

3 Q. Did you ever ask him, can the contract be  
4 rebid?

5 A. I don't recall that.

6 Q. Do you recall Mr. Payne saying to you that  
7 there was no legal basis upon which the contract  
8 could be canceled?

9 A. I don't recall that.

10 Q. Do you recall Mr. Payne saying to you that  
11 there's no legal basis upon which the contract  
12 could be rebid?

13 A. I do not recall that.

14 Q. At that particular point, in May of 2008,  
15 were you under pressure by any elected officials  
16 to cancel that contract?

17 A. I don't recall that.

18 Q. You would recall if you were?

19 A. Yes.

20 Q. Did you have any communication with Jack  
21 Evans about whether the contract could be

1 canceled?

2 A. I don't recall that particular request.

3 Q. Okay. Whether the subcontractor could be  
4 substituted -- let me rephrase it. Did you have  
5 any communication with any elected official about  
6 whether the subcontractor Warren Williams could be  
7 replaced?

8 A. I don't recall that.

9 Q. Reading the last sentence of this  
10 particular paragraph, sir --

11 A. Of page ten -- on page five?

12 Q. Page five.

13 A. He stated that to continue with this  
14 proposed award would only antagonize the chairman.

15 Q. Did you tell Mr. Payne that on that day?

16 A. I do not recall that.

17 Q. Did the chairman want that particular  
18 contract to go through the City Council? Did he  
19 want the City Council to pass that contract?

20 A. I don't know that.

21 Q. In his communication with you, did he

1 express his objections to the contract award?

2 A. I don't know that.

3 Q. Did you have conversations with Peter  
4 Nichols regarding the procurement consideration  
5 by -- excuse me, regarding the City Council's  
6 review of the contract?

7 A. Yes.

8 Q. And what were your conversations?

9 A. My conversation to him was primarily, I  
10 want this contract approved, lottery contract  
11 approved, primarily because I cannot work with a  
12 lottery as it was then constituted. It's an old,  
13 old machinery equipment. We are exposed to  
14 various weaknesses here and the revenues are in  
15 danger here and, if this is not approved in due  
16 time, I will have to revise the revenue estimate.  
17 That was a paramount concern for me in all my  
18 conversation, not only with Mr. Nichols, but also  
19 with the councilmembers.

20 Q. Just as a side bar, did you have any  
21 communication with Peter Nichols about Mr. Payne's

1 potential lawsuit?

2 A. No.

3 Q. And this is after he was fired, after  
4 Mr. Payne was --

5 A. No.

6 Q. So if I understand you correctly, as of  
7 May 2008, there's no pressure, that you see, from  
8 the City Council, to modify the contract?

9 A. None.

10 Q. And no pressure from any individual member  
11 of the Council?

12 A. No one asked me anything about canceling,  
13 renegotiating anything about this contract, not a  
14 single councilmember.

15 Q. And no -- the only communication you had  
16 relative to the subcontractor, was that from  
17 Mr. Graham?

18 A. Right.

19 Q. And was the e-mail that I shared with you,  
20 which was marked as an exhibit here, is that the  
21 only written communication from you or is that the



1     only communication that you know about where the  
2     issue of Mr. Graham's concern is referenced?

3           A.   I think so.

4           Q.   I'm directing your attention to paragraph  
5     four, please.  Before I ask this question, why  
6     would Lorraine Green be contacting you about the  
7     D.C. -- lottery contract?

8           A.   You have to ask her.

9           Q.   You don't recall the substance of the  
10    communication?

11          A.   No.  I understand that she was once the  
12    director of lottery and, you know, she might have  
13    interest in the lottery and I said, it's open to  
14    all, anybody can compete.

15          Q.   Is that what the substance of the e-mail  
16    communication that she had with you was on your  
17    private e-mail?

18          A.   I don't recall sending or receiving any  
19    e-mail, particularly lottery, with Lorraine Green;  
20    I just don't recall.

21          Q.   Do you recall receiving or sending an

1 e-mail on your private e-mail with Lorraine Green,  
2 receiving or sending an e-mail to her?

3 A. I simply don't recall.

4 Q. You don't recall the content of that  
5 communication?

6 A. Both.

7 Q. Directing your attention to paragraph  
8 four, this reads that according to Bob Andary, the  
9 director of OIO, he met with Gandhi on or about  
10 May 15th of 2008.

11 A. Uh-huh.

12 Q. He then disclosed to Gandhi the nature of  
13 confidential communication and the target of the  
14 complaint here. Do you have any recollection of  
15 that?

16 A. No, I do not.

17 Q. Do you have any recollection, and it  
18 states here, in the same afternoon, you met with  
19 Lundquist and Jacobs. Do you have any  
20 recollection of that?

21 A. No.

1           Q. The next sentence states, according to  
2           Lundquist, he, referring to you, stated to them  
3           that my tenure, Mr. Payne's tenure within the OCFO  
4           needed to, quote unquote, needed to end as soon as  
5           possible. Do you recall telling Mr. Lundquist  
6           that on or around May 15th, 2008?

7           A. No, I do not.

8           Q. Would you have, at any point, told  
9           Mr. Lundquist, in the spring of 2008, that  
10          Mr. Payne's tenure with the CFO was over and that  
11          he had to go?

12          A. No.

13          Q. Would you have told him that, at some  
14          point, that you wanted him, in the spring, that  
15          you wanted him out of that position as to contract  
16          officer?

17          A. No.

18          Q. Who is George Walker?

19          A. Say that again, please.

20          Q. Who is George Walker?

21          A. I do not know him.

1 Q. Did you ever ask Eric to call a George  
2 Walker?

3 A. I do not recall asking him to call George  
4 Walker.

5 Q. Do you recall telling Eric to --  
6 instructing him to just listen on how Angell was  
7 on the line?

8 A. Say that again, please.

9 Q. Did you ever tell him to just listen to a  
10 phone conversation when Angell was on the phone?

11 A. No, I don't recall.

12 Q. And I'm sure that's difficult to remember.  
13 Did Lundquist ever tell you that he had reported  
14 to Mr. Payne that he was going to fire him?

15 A. No.

16 Q. Directing your attention to paragraph  
17 seven.

18 A. Uh-huh.

19 Q. Paragraph seven, please.

20 A. Yes.

21 Q. Do you recall Mr. Payne testifying before

1 the City Council?

2 A. No, I do not.

3 Q. Directing your attention to the same  
4 paragraph, page four, first sentence, please.

5 Mr. Payne references a meeting on April the 8th,  
6 2008 with yourself, Councilmember Evans and in  
7 attendance as well was Jay Young, Jeff Woodrow,  
8 David Tseng and Mr. Payne, do you recall such a  
9 meeting?

10 A. Yes, I do.

11 Q. Mr. Payne reports that Evans said,  
12 everyone loves Intralot, their technology and  
13 their practice, it's Warren Williams that people  
14 have a problem with. Do you recall that  
15 statement?

16 A. I do not recall this conversation.

17 Q. Do you recall whether there was any  
18 discussion at that meeting about the technical  
19 solution or price which Intralot offered?

20 A. I do not recall the conversation.

21 Q. What do you recall about the meeting,

1 please?

2 A. That the meeting did take place and,  
3 again, to repeat myself, I suggested that we need  
4 to have this contract approved.

5 Q. That was the extent of the meeting?

6 A. That is the extent of my recollection.

7 Q. And is it true that Mr. Young, Mr. Wood,  
8 Mr. Tseng and Mr. Payne was in attendance at that  
9 meeting?

10 A. I recall Jay Young in that meeting and  
11 Mr. Evans, but I don't recall all the  
12 participants.

13 Q. You don't recall Mr. Payne there?

14 A. No.

15 Q. Okay. Do you recall -- and it states here  
16 that Evans went on to state, "Can't we just get  
17 rid of Williams, who apparently is a slumlord and  
18 everyone has a problem with and replace him with  
19 Manning?"

20 A. I don't recall that comment.

21 Q. Do you recall anyone ever suggesting that

1 Williams be replaced with Manning?

2 A. I don't recall that.

3 Q. You never had a conversation with any  
4 elected official or, i.e., member of the City  
5 Council, where that subject was broached.

6 A. I don't recall that.

7 Q. You don't recall the balance of this  
8 paragraph having taken place, as well; is that  
9 correct?

10 A. Right.

11 Q. Directing your attention to paragraph  
12 twelve, please, page six. You're aware that on or  
13 around July first Mr. Payne was removed from his  
14 position as the director of the Office of  
15 Contracts?

16 A. I do not specifically recall the dates.

17 Q. You're aware of that removal, though?

18 A. Yes.

19 Q. Now, Mr. Lundquist, according to Mr.  
20 Payne, states that it was, quote unquote, the will  
21 of Gandhi, and that being, that you -- it was your

1 order, essentially, that he be removed; is that  
2 statement, it was the will of Gandhi, true?

3 A. No.

4 Q. And I take from your answer that you  
5 played no role in that particular decision?

6 A. Who did not play a role?

7 Q. You, sir, did not play a role in the  
8 decision to remove Mr. Payne from that position?

9 A. My role was limited only to the extent  
10 that I did not want any personnel -- any person  
11 within the CFO whose managerial and supervisory  
12 skills are questionable and who cannot get along  
13 with other members of the staff. If Mr. Payne  
14 fits that bill, then yes.

15 Q. And I understand your answer. I'm  
16 attempting to elicit a very specific response from  
17 you. There was a decision made that Mr. Payne  
18 would be removed?

19 A. Right.

20 Q. Okay. And who made that decision?

21 A. His supervisor.



1 Q. And that would be Mr. Lundquist?

2 A. Right.

3 Q. And was Angell Jacobs involved in that  
4 particular decision, to your knowledge?

5 A. No, I do not know that.

6 Q. And were you involved in that decision?

7 A. No, I was not.

8 Q. And what you know about that is based upon  
9 a meeting that you had with Mr. Lundquist?

10 A. Which meeting?

11 Q. Well, let me be clear. Relative to  
12 Mr. Payne being removed, how did you learn about  
13 that?

14 A. In subsequent meeting, one-on-one meeting,  
15 I was told this.

16 Q. Is this after his removal or before his  
17 removal?

18 A. After.

19 Q. What did you know about his removal before  
20 he was removed?

21 A. I do not -- I do not recall any knowledge

1 of Mr. Lundquist removing Mr. Payne.

2 Q. So you're saying that you didn't know  
3 anything about Mr. Payne being removed from his  
4 position until after --

5 A. After, right.

6 Q. -- he was removed?

7 A. I knew the issues, but I didn't know the  
8 specific action as to when it was taken.

9 Q. And is it your understanding that in  
10 June 2008, that Mr. Payne was having problems with,  
11 A, his subordinates that worked under him?

12 A. I don't know about the specific dates, but  
13 I do remember there were issues concerning his  
14 subordinates.

15 Q. Do you know the extent to which his  
16 immediate management subordinates had resolved any  
17 complaints that they may have had with Mr. Payne?

18 A. I do not know that.

19 Q. Do you know the extent to which -- the  
20 fact that his immediate management subordinates on  
21 the lottery contracts had not filed any complaints

1 about Mr. Payne?

2 A. I don't know anything about that.

3 Q. So what you know is based upon hearsay  
4 from Mr. Lundquist?

5 MS. EFROS: Objection.

6 A. The question again.

7 Q. What you know is based upon what you heard  
8 from Mr. Lundquist?

9 A. And from others as well in the CFO  
10 cluster, that there are issues with Mr. Payne.

11 Q. Okay. Are there others that did not  
12 directly supervise Mr. Payne?

13 A. Other people who would have to deal with  
14 him on procurement issues in the CFO cluster.

15 Q. Who were those others?

16 A. I do not recall the particular  
17 individuals.

18 Q. Did you make any kind of note that,  
19 memorialize it?

20 A. No, I did not.

21 Q. Did any of these others complain to you,

1 personally, about Mr. Payne?

2 A. I do not specifically recall who  
3 complained about Mr. Payne, but I do recall  
4 complaints emerging about Mr. Payne.

5 Q. And you don't know whether those  
6 complaints were in 2006, '07 or '08; is that  
7 correct?

8 A. I do not specifically know the dates.

9 Q. Did Mr. Payne ever request a meeting with  
10 you to discuss confidentially his concerns about  
11 lottery procurement issues in around the spring  
12 2008?

13 A. I recall the request for meetings. I do  
14 not recall the particular subject for which the  
15 meeting was sought.

16 Q. To the extent that Mr. Payne would have  
17 filed complaints with the Office of -- the Office  
18 of Inspector General and OIO and had concerns and  
19 to the extent that Mr. Andary would have reported  
20 such a complaint to you, would it have been  
21 appropriate for you to meet with Mr. Payne?

1 A. Repeat the question again.

2 Q. To the extent that Mr. Payne had filed a  
3 complaint about procurement practices with the IG  
4 and OIO and sought to meet with you and that  
5 Mr. Andary had reported that such a complaint had  
6 been filed to you, would it have been appropriate  
7 for you to meet with him?

8 A. I don't know. The question -- I did not  
9 know about his complaint to OIG or OIO and I think  
10 the -- such a request would come through the  
11 channels and that's all I can tell you.

12 Q. Let me direct your attention to paragraph  
13 two, please, in this affidavit.

14 A. Paragraph?

15 Q. Two.

16 A. Uh-huh.

17 Q. And the --

18 MR. TEMPLE: Sorry. Thank you.

19 BY MR. TEMPLE:

20 Q. Mr. Payne suggests in this paragraph or  
21 asserts in this paragraph that there were

1 inappropriate attempts to influence and change the  
2 contract outcome and that you resisted those on  
3 numerous occasion, if Mr. Payne was experiencing  
4 that, would it have been appropriate for him to  
5 try to consult with you to talk about that?

6 A. Yes.

7 Q. Mr. Payne complains in paragraph three,  
8 directing your attention to mid-paragraph.

9 A. Uh-huh.

10 Q. He speaks about a meeting that he had on  
11 August the 9th, 2008 with OCFO program officials,  
12 Office of Budget and Planning, regarding  
13 technology contracts, IT contracts --

14 A. Uh-huh.

15 Q. -- and he says that he learned about  
16 contract fraud and even ghost contractors. Do you  
17 see that?

18 A. Yes.

19 Q. Okay. In conjunction with Paul Lundquist.  
20 Did Paul Lundquist ever discuss with you any  
21 concerns about contract improprieties relative to

1 IT contracts?

2 A. I do not recall that.

3 Q. And would Paul Lundquist be required,  
4 based upon if this information is true, to have  
5 reported such information to OIO?

6 A. If he reported it, yes.

7 Q. If he suspected it, as well, would he be  
8 obligated to report that?

9 A. Yes.

10 Q. Last sentence of this paragraph, sir --

11 A. Uh-huh.

12 Q. -- says that Mr. Payne was mindful of an  
13 affirmative duty to report employee misconduct  
14 and/or suspicious activity as part of an employee  
15 code of conduct; is that an accurate statement?

16 A. Yes.

17 Q. Directing your attention to paragraph  
18 five.

19 A. Uh-huh.

20 Q. You have no personal knowledge about  
21 Mr. Tseng's complaint against Mr. Payne in OIO --

1           A.   That is correct.

2           Q.   -- and the fact that it was determined to  
3   be unsubstantiated?

4           A.   That is correct.

5           Q.   And Mr. Tseng never reported to you that  
6   he had filed a complaint with -- against  
7   Mr. Payne?

8           A.   I don't recall that.

9           Q.   Did Mr. Tseng communicate with you on your  
10   personal e-mail?

11          A.   I don't recall that.

12          Q.   Directing your attention to paragraph six,  
13   relative to -- are you okay, Mr. Gandhi?

14          A.   Yes, I'm okay.

15          Q.   Relative to Mr. Teller --

16          A.   Uh-huh.

17          Q.   -- in the note there, that Mr. Payne, per  
18   the insistence of Mr. Lundquist, reported to the  
19   OIG's audit and criminal investigative  
20   representatives his knowledge of Mr. Teller's  
21   suspected fraudulent procurement activities. Were



1     you aware of that?

2           A.   No, I am not.

3           Q.   Mr. Lundquist never had a discussion with  
4     you about that?

5           A.   I don't recall that.

6           Q.   Would you expect Mr. Lundquist to have  
7     some discussion with you about contract  
8     improprieties about which he had become aware?

9           A.   Depending upon the severity of the  
10    situation.

11          Q.   How does one determine the level of  
12    severity relative to a contract impropriety?

13          A.   Well, that's a matter of managerial  
14    judgement on the part of Mr. Lundquist.

15          Q.   Is ghost employees the type of issue that  
16    you would expect --

17          A.   Yes.

18          Q.   -- a manager to report?

19          A.   If it is severe, yes.

20          Q.   If it's --

21          A.   If it's severe.

1 Q. Severe.

2 A. The impropriety is severe.

3 Q. And would you have expected that he would  
4 have reported that to Ms. Lundquist -- I mean,  
5 Ms. Jacobs?

6 A. Yes.

7 Q. And Ms. Jacobs never reported that to you?

8 A. Right. I don't recall that.

9 Q. I think that we have to end.

10 A. Excuse me?

11 Q. Well, the tape is getting ready to run  
12 out. Directing your attention to paragraph 12,  
13 please. The last sentence on page seven, this  
14 references Mr. Graham -- Mr. Payne's change of  
15 position and Ms. Jacobs suggests that, to some  
16 extent, Mr. Gray and Mr. Graham had something to  
17 do with that particular decision to change --

18 MS. EFROS: Objection.

19 MR. TEMPLE: Can I finish my question?

20 May I finish my question?

21 MS. EFROS: Yes.

1 MR. TEMPLE: Thank you. Actually, I'm  
2 going to let the tape run out and then we'll come  
3 back.

4 THE VIDEOGRAPHER: This is the end of tape  
5 one in the videotape deposition of Dr. Natwar  
6 Gandhi. Going off the record at 11:11.

7 (Brief recess.)

8 THE VIDEOGRAPHER: This begins tape two in  
9 the videotape deposition of Dr. Natwar Gandhi.  
10 We're now going on the record at 11:28. You may  
11 proceed, Mr. Donald (sic).

12 MR. TEMPLE: Thank you.

13 (Deposition Exhibit No. 5 was marked for  
14 identification.)

15 By MR. TEMPLE:

16 Q. I'll show you what we marked as  
17 Plaintiff's Exhibit 5. It's an e-mail entitled  
18 lottery project, dated January 13th, 2008, which  
19 is a Sunday, and it's from yourself, but it's sent  
20 directly to Mr. Payne, and it's e-mail received  
21 from Mr. Payne -- excuse me again, referencing,

1 I'm sorry, an inquiry that Mr. Payne noted about a  
2 particular contract. Was it unusual for you to  
3 send e-mail correspondence directly to Mr. Payne?

4 MS. EFROS: Objection.

5 MR. TEMPLE: You can answer the question.

6 A. When a given e-mail is sent to me and it  
7 is of some consequence that I am particularly  
8 interested in, as it is in this case, I assume  
9 this is about the privatization of lottery, I  
10 would respond.

11 Q. Why is it important that Payne is in that  
12 communication link?

13 A. Because this would have been a procurement  
14 issue.

15 Q. And so, by way of these e-mails, you did,  
16 in fact, monitor what was going on with the  
17 lottery contract and what, in fact, Payne was  
18 doing from time to time?

19 MS. EFROS: Objection.

20 A. No, this is about the privatization of  
21 lottery. This is not to do with the contract of

1 the lottery.

2 Q. Explain the privatization issue?

3 A. That is some movement on the part of some  
4 states to, basically, farm out the lottery to  
5 private sector. They would run the lottery for  
6 you and, given the efficiency of the private  
7 sector, you know, there would be more money coming  
8 to the City and I was quite interested in  
9 exploring the possibility of privatization of the  
10 District's lottery and that is why, as you can  
11 see, when I see something outside, like in the  
12 State of New York, then I would say, where is the  
13 project, we would explore the possibilities, is  
14 there a potential there or not.

15 (Deposition Exhibit No. 6 was marked for  
16 identification.)

17 By MR. TEMPLE:

18 Q. I'm showing you what's marked as  
19 Plaintiff's Exhibit 6. I note here that, again,  
20 this is a Tuesday, June 2006 e-mail, dated five  
21 o'clock, p.m. I note that it's sent from you to,

1 again, Ms. Jacobs and Mr. Payne and Mr. Lundquist  
2 on your private e-mail?

3 A. Uh-huh.

4 Q. And why would that have been the case at  
5 five o'clock on that day?

6 A. My sense here is that this particular mail  
7 would have come with an attachment to my private  
8 account and then I simply requested, look into  
9 this, how should I respond to this?

10 Q. Let me make sure I understand you. An  
11 e-mail would have come to you?

12 A. Right.

13 Q. On your private account?

14 A. Right.

15 Q. From whom?

16 A. Whoever the person here is.

17 Q. So that would have been Angell?

18 A. I don't remember at this stage.

19 Q. And with an attachment?

20 A. Right.

21 Q. And would that e-mail have also gone to

1 your government account or just your private  
2 account?

3 A. Apparently -- I really don't know whether  
4 it went to the government account, as well, but as  
5 I said, I keep both accounts open and, while I'm  
6 working on some issues and when this comes up,  
7 I'll just send it in.

8 Q. Let me understand something. Do you  
9 understand the Freedom Information Act for the  
10 District of Columbia?

11 A. I do.

12 Q. If a Freedom of Information Act request is  
13 made to you, for your e-mails, would you reply in  
14 response e-mails that were on your private  
15 account?

16 A. Yes.

17 Q. And you have done that?

18 A. So far, I don't think that has been a  
19 request of that sort but, if I'm legally required,  
20 I will do it.

21 Q. In this particular case, you're aware that

1 we've asked for e-mails related to the contract  
2 and to Mr. Payne's claims and/or the Government's  
3 defenses; you're aware of that?

4 A. Generally, yes, but I don't know what  
5 particular request was made.

6 Q. Okay. And you have -- have you done any  
7 search, whatsoever, of your personal e-mail  
8 account to ascertain whether there were any  
9 responsive e-mails to our request?

10 A. No, I have not.

11 Q. Have you sent any e-mails from your  
12 government account to your personal account?

13 A. I might have; I don't know.

14 Q. And if you did, why would you do that?

15 A. If I need to work on something at --  
16 because depending upon what I have in front of me,  
17 at the time that I received the e-mail and I think  
18 I need more time to work on it, I'll do work at  
19 home, so I'll just send it to home account.

20 (Deposition Exhibit No. 7 was marked for  
21 identification.)



1 BY MR. TEMPLE:

2 Q. I'm showing you Plaintiff's Exhibit 7.

3 Have you had a chance to read this?

4 A. I'm sorry?

5 Q. Are you finished reading this?

6 A. Yes.

7 Q. I note that Mr. Payne, on January the  
8 16th, 2009, after he was fired, wrote an e-mail to  
9 yourself and Mr. Lundquist and Ms. Jacobs about  
10 his payroll check.

11 A. Uh-huh.

12 Q. Yes. That is really not the kind of issue  
13 you would be interested in generally; is that  
14 correct?

15 A. Generally, yes, I wouldn't be dealing with  
16 this.

17 Q. And above that, there's an e-mail from  
18 Mr. Lundquist to you, dated the same date about an  
19 hour and a half later. Do you know why  
20 Mr. Lundquist --

21 A. Say that again, please.

1 Q. Above that, there's an e-mail --

2 A. Are you looking at this one or this one?

3 Q. The one above that, I'm sorry.

4 A. Okay.

5 Q. It's a reference, if you look at the top  
6 of the page and you look below that, there is,  
7 from Lundquist to Mr. Gandhi, et cetera.

8 A. Uh-huh.

9 Q. And the subject is Eric Payne.

10 A. Uh-huh.

11 Q. Why would Mr. Lundquist be advising you of  
12 Mr. Payne's payroll check situation?

13 A. I guess, primarily because Mr. Payne had  
14 addressed this to me, at net Gandhi address and I  
15 want to make sure that people are properly  
16 treated, so they are basically telling me here, to  
17 relinquished e-mail, that, you know, we have done  
18 this, this and this.

19 Q. I note that, if you look above it, the  
20 third e-mail at the top of the page, it says from  
21 Gandhi, Dr. Natwar, January the 16th again, two

1 hours later or two and a half hours later, you're  
2 sending this to your personal e-mail.

3 A. Uh-huh.

4 Q. And there is no work to be done, there are  
5 no attachments, et cetera, why would you be then  
6 sending this to your personal e-mail?

7 A. I don't know now.

8 Q. Did you send other e-mails related to  
9 Mr. Payne that you received from Angell, from  
10 Lundquist, from anyone to your personal e-mails?

11 A. I don't recall. I may have, I don't know.

12 MR. TEMPLE: Let me go on the record and  
13 say this. Okay. We have requested e-mails  
14 regarding Mr. Payne and we've had three witnesses  
15 and we have not received the requested e-mails and  
16 we have attempted to cooperate in that regard. We  
17 have three witnesses that we've deposed, including  
18 Mr. Gandhi, Mr. Lundquist and Ms. Jacobs, on the  
19 operational side; and Mr. Pendleton, on the OIO  
20 side, who says he has e-mails and, to date, there  
21 are significant number of inquiries that have not

1     been made. We do not have responsive e-mails and  
2     that raises significant concern for the plaintiff.

3             MS. EFROS: I don't want to interrupt you.  
4     Are you done?

5             MR. TEMPLE: I'm finished.

6             MS. EFROS: As I said yesterday, I think I  
7     said yesterday, if I didn't, I will say it today,  
8     with respect to e-mails that you don't think you  
9     have or you don't think we produced, we will  
10    certainly look into that and we endeavor to get  
11    you any missing e-mails that are appropriate and  
12    are responsive to discovery as soon as we can.  
13    And that will include, of course, if there are  
14    responsive e-mails, on personal e-mail accounts.

15            MR. TEMPLE: Indulgence. We're going to,  
16    at this point, Mr. Gandhi, thank you for your  
17    patience, we're going to end this deposition at  
18    this time. I want to note, for the record, we  
19    reserve our right, on two counts, to continue the  
20    deposition, subject to the receipt of additional  
21    discovery and, B, consistent with our time

1 allotment.

2 MS. EFROS: Understood.

3 MR. TEMPLE: Thank you, sir.

4 THE VIDEOGRAPHER: Any questions on this  
5 side?

6 MS. EFROS: No.

7 THE VIDEOGRAPHER: This is the end of tape  
8 two in the videotape deposition of Dr. Natwar  
9 Gandhi. The deposition concludes at 11:41.

10 (This portion of the deposition concluded  
11 at 11:41 a.m.)  
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CERTIFICATE OF DEPONENT

I hereby certify that I have read and  
examined the foregoing transcript, and the same is  
a true and accurate record of the testimony given  
by me.

Any additions or corrections that I feel  
are necessary, I will attach on a separate sheet  
of paper to the original transcript.

\_\_\_\_\_

Dr. Natwar M. Gandhi

Dated \_\_\_\_\_

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CERTIFICATE OF NOTARY PUBLIC

I, Kelly Susnowitz, the officer before whom  
the foregoing deposition was taken, do hereby  
certify that the witness whose testimony appears  
herein was duly sworn by me; that the testimony of  
said witness was taken by me in shorthand and this  
transcript typed under my direction; that said  
transcript is a true record of the testimony given  
by said witness; that I am neither counsel for,  
related to, nor employed by any of the parties to  
the action in which this deposition was taken;  
and, further, that I am not a relative or employee  
of any attorney or counsel retained by the parties  
hereto, nor financially or otherwise interested in  
the outcome of the action.

\_\_\_\_\_

Notary Public in and for the  
District of Columbia

My commission expires:  
June 13, 2012

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